K 1944

File No. Electric II/44
Legal Deptt.

B **BRANCH**

Subject:—

Rules and Notifications
under the Indian Electricity
Act 1910

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page 03
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Gen. 194 e.

18 B

Office of the R.L.A.

'A' of P.W.D. note at p.23- Section 3(2)(f) of the Indian Electricity Act, 1910, provides that the provisions in the Schedule shall be incorporated with, and form part of, every license granted under Part II, and shall, subject to any additions, variations or exeptions which the Provincial Government is hereby empowered to make, apply to the under taking authorised by the license.

2. Clause XI of the Schedule has been modified by clause 11(D) of the Nira-Lonand Electric License, 1940, to read:-

"Notwithstanding anything contained in section 4(3)(b), Goverment shall have power even without any application or consent of the licensee to alter the maxima fixed by the license from time to time by an amendment of the license."

3. Section 4(3)(b) of the Indian Electricity Act, 1910, also empowers Government to alter or amend the terms and conditions of a license, including the maxima fixed by the license. But that section makes the exercise of that power subject to two conditions, viz, (1) on the application or with the consent of the licensee, and (2) if the licensee is not a local authority, after consulting the local authority (if any) concerned. Clause XI of the Schedule, as modified by condition11(D) of the License thus dispenses only with the first of these two conditions, i.e. it empowers Government

VVK. 12/7/56/
SC.

to alter the maxima even without any application or consent of the licensee. The second condition governing the exercise of the power therefore stands and consultation with the local authority cannot be dispensed with.

4. All that section 4(3)(b) requires is prior consultation with the local authority before altering the maxima rates, It does not require Government to obtain the concurrence of the local authority to the proposed alterations.

5. 'B' of P.W.D. note at p.23.- in the absence of any specific provision in that behalf, retrospective effect cannot be given to the proposed amendment of the license. It is true that the licensee has been charging the chhanced rates since 1st July 1943,but it is not feasible to legalise thelevy of such enhanced raies as there isno power with Government to effect any amendment of thelicense retrospectively.

6. A revised draft notification in place of the draft notification suggested by the Electrical Engineer to Government at page 25 is sent herewith.

Id/- P.N.M.
dt/- 31/12/

Remembrancer of Legal Affairs.

Office of R.L.A.

A revised draft notification is sent herewith.

Id/- P.M.M.
dt/- 10/11/44.

Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 7882 , dated the November 1944.

VVK. 12/7/56/

5C.

Notification.
Public Works Department,
Bombay Castle, 1944.

Indian Electricity Act, 1910.

No. .-; In exercise of the powers conferred by clause (b) of sub-section (3) of section 4 of the Indian Electricity Act, 1910 (IX of 1910) the Government of Bombay is pleased, after consulting the Municipal it of Igatpuri to amend the Igatpuri Electric License, 1937, as foldows:-

After sub-clause (2) of clause A of condition 9 of the said license, and Before the Note the following proviso shall be inserted, namely:-

" Provided that the licensee may enhance the rates in sub-clause (2) by anna one and pies three perunit, x- during such time as he purchases energy in bulk from the G.I.P. Railway at the rate of annas two and pies six per unit. "

By order of the Governor of Bombay,

Secretary to Government.

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